

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-4456.M5**

MDR Tracking Number: M5-04-2433-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 4-5-04.

Dates of service 4/2/03, 4/3/03 and 4/4/03 were submitted untimely per Rule 133.308 and will not be considered further in this decision.

The IRO reviewed medical necessity of joint mobilization, office visits with manipulation, mechanical traction, hot/cold pack therapy, electrical stimulation unattended, myofascial release, traction manual, therapeutic exercise, neuromuscular re-education, chiropractic manipulative treatment.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that joint mobilization (4/7, 5/8, 5/28), hot/cold pack therapy (4/9, 4/15), mechanical traction (4/10, 5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2), myofascial release (5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2), therapeutic exercise (1 unit on 5/22) (2 units on 5/15, 5/19, 5/21), (5 units on 5/28, 5/29), (4 units on 5/30, 6/2), neuromuscular re-education (5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2), chiropractic manipulative treatment (9/15) were not medically necessary. The IRO concluded that all remaining services were medically necessary.

On this basis, the total amount recommended for reimbursement (\$1718.14) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On July 6, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
4-14-03 5-21-03	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5(d)	Work status report for date of service 4-14-03 indicates claimant still was unable to return to work; therefore, filling of report was not necessary per statute.  5-21-03 complies with statute, therefore, reimbursement of \$15.00 is recommended.
4-24-03 4-28-03 5-1-03	97110 (5)	\$225.00	\$140.00	F, N	\$35.00/15 min	Medicine GR (I)(A)(9)(b)	See Rationale below.
5-2-03 5-5-03	97110 (4)	\$180.00	\$35.00	F, N	\$35.00/15 min		
4-24-03 4-28-03	97112	\$45.00	\$0.00 \$30.00	N	\$35.00/15 min	CPT Code Descriptor	SOAP note supports service billed, reimbursement of \$35.00 X 2 = \$70.00 is recommended.
5-1-03	97540	\$45.00	\$0.00	N	\$32.00	Rule 133.301(B)	SOAP note supports service billed, reimbursement of \$32.00 is recommended.
9-15-03	99214-25	\$95.00	\$0.00	F, N	\$92.30	Rule 134.202	Office visit report supports delivery per statute, reimbursement of \$92.30 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$209.30.</b>

Rationale for 97110:

Recent review of disputes involving one-on-one CPT code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate

confusion regarding what constitutes “one-on-one.” Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the 1996 MFG and 133.307(g)(3). Therefore, reimbursement is not recommended.

### **ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 4-5-03 through 9-15-03 in this dispute.

This Order is hereby issued this 20<sup>th</sup> day of January , 2005.

Elizabeth Pickle  
Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO Decision

Amended Decision  
November 16, 2004

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2433-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker’s Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

\_\_\_ was injured on \_\_\_ as he bent forward to lift a tin cover. The notes indicate he received chiropractic manipulations, passive modalities, therapeutic exercises and neuromuscular re-education. He was diagnosed with a grade two Lumbosacral sprain with DDD and a retrograde spondylolisthesis at L5. The patient was impaired with 0% impairment with MMI on 6/25/03. He apparently presented two more times after release from treatment for reported exacerbations.

### DISPUTED SERVICES

97265 joint mobilization, 99213 MP, 99214 MP OV with manipulation, 97012 Mechanical Traction, 97010 hot/cold pack therapy, 97014/G0283 Electrical Stimulation unattended, 97250 myofascial release, 97122/97140 Traction manual, 97110 Therapeutic Exercise, 97112 Neuromuscular re-education, 98940 chiropractic manipulative treatment spinal denied by carrier with 'u' codes. Do not review: required reports 4/14/03 and 5/21/03, DOS 4/24/03, 4/28, 5/1, 5/2 or 5/5/03. Review the # of units of therapeutic exercise for 5/12 and 5/14/03. Do not review office visit of 9/15/03.

### DECISION

The reviewer agrees with the previous adverse determination for the following services: 97265 joint mobilization (4/7, 5/8, 5/28); 97010 hot/cold packs; (4/9, 4/15); 97012 Mechanical traction (4/10, 5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2); 97110 Therapeutic Exercise (1 unit on 5/22) (2 units on 5/15, 5/19, 5/21), (5 units on 5/28, 5/29), (4 units on 5/30, 6/2); 97112 Neuromuscular Re-education (5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2); 97250 Myofascial Release (5/14, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/2); 98940 Manipulation (9/15). Therefore, they are all denied as not medically necessary.

The reviewer disagrees with the previous adverse determination for all remaining services. 97012 Mechanical traction (4/9, 4/15); 97014 E-Stimulation (4/9, 4/10, 4/15); 97250 Myofascial Release (4/9, 4/10, 4/15); 99213 Office visit (4/9, 4/10, 4/15, 5/15, 5/19, 5/21, 5/22, 5/28, 5/29, 5/30, 6/9, 6/25); 99214 Office visit (6/2); 97122 Traction manual (4/10); 97110 Therapeutic

Exercise (4 units 5/8, 5/12) (3 units 5/14, 5/19, 5/21, 5/22); 97112 Neuromuscular Re-education (5/8); 98940 manipulation (8/13).

#### BASIS FOR THE DECISION

The reviewer indicates the decision is based upon the Occupational Medicine Practice Guidelines as published by the AOEM, TX Labor Code 408.021 and the NASS phase III Guidelines. The patient improved through treatment on many levels. On multiple dates, the carrier paid for one 97110 code in my opinion it would not be safe/effective for a patient to perform the required exercises in one 15 minute period; therefore, the findings are as noted above. The later therapeutic exercise protocols were denied due to a lack of appropriate increasing difficulty/functionality of treatment as provided (i.e. same protocols performed over and over).

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO  
CC: Specialty IRO Medical Director